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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

MAY 10 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Implementation of the Cable Television
Consumer Protection and Competition
Act of 1992

MM Docket No. 92-259

Broadcast Signal Carriage Issues
Reexamination of the Effective
Competition Standard for the
Regulation of Cable Television
Basic Service Rates

MM Docket No. 90-4

Request by TV 14, Inc.
to Amend Section 76.51 of the
Commission's Rules to Include
Rome, Georgia, in the Atlanta,
Georgia, Television Market

MM Docket No. 92-295
RM-8016

To: The Commission

**MOTION FOR LEAVE TO FILE
REVISED PETITION FOR RECONSIDERATION**

Cypress Broadcasting, Inc. ("Cypress"), licensee of television station KCBA, Channel 35, licensed to Salinas, California, hereby moves for leave to file a revised copy of its Petition for Reconsideration of the Commission's Report and Order in the above-captioned proceeding, which Cypress filed May 3, 1993. Cypress submits this motion to provide a revised copy of its Petition for Reconsideration, which inadvertently included an inaccurate description of one aspect of the Commission's Report and Order. The revision does not change any substantive argument in the Petition for Reconsideration, but it does demonstrate further Commission support for the arguments previously raised by CSI. The

pages which have been revised are attached to this Motion and the revisions to those pages are underlined.

WHEREFORE, for good cause shown, Cypress moves for leave to file the attached revised copy of its Petition for Reconsideration.

Respectfully submitted,

CYPRESS BROADCASTING COMPANY

By: 

James L. Winston, Esq.
Walter E. Diercks, Esq.
Rubin, Winston, Diercks,
Harris & Cooke
1730 M Street, N.W.
Suit 412
Washington, D.C. 20036
(202) 861-0870

May 10, 1993

19. Second, the Cable Act requires Granite to present evidence on whether any other station, that is eligible to be carried by a cable system in the affected community as a must-carry signal, provides "news coverage of issues of concern to the affected community or provides carriage or coverage of sporting and other events of interest to the affected community." Section 614(h)(1)(C)(ii)(II). Again, Granite presented no such evidence, and the Commission had no record upon which it could make the finding the Cable Act requires.

20. Third, the Cable Act requires Granite to present "evidence of viewing patterns in cable and noncable households within the areas served by the cable system or systems in such community." Section 614(h)(1)(C)(ii)(IV). The Cable Act does not specify precisely the information the Commission must require to meet the evidentiary burden imposed by Section 614(h)(1)(C)(ii)(IV). In its Report and Order, the Commission stated that a station or cable system seeking to modify a market would be required to use the procedures of Section 76.7 for special relief filings. Report and Order, at para. 45. The Commission added that "surveys such as those used to demonstrate significantly viewed status could be useful." Id. at para. 47. Thus, Granite's showing on this point is particularly inadequate, and the Commission once again has no evidence to support the finding required by the Act.

IV. THE COMMISSION MAY BY RULEMAKING REDEFINE THE SALINAS-MONTEREY ADI TO INCLUDE SANTA CLARA COUNTY

21. As noted above, in reconsidering its decision to accord stations must-carry rights in communities outside of their ADIs, the Commission may afford KNTV the opportunity to file a request with sufficient evidence to make the statutory showing justifying must-carry rights in additional "communities." Alternatively, if the Commission chooses to add a "county" to the Salinas-Monterey market, it must do so in a manner consistent with the Cable Act and Commission precedent.

22. While the Cable Act precludes the Commission from designating additional counties as part of the Salinas-Monterey market for the sole benefit of KNTV, the Cable Act does not preclude the Commission from using its existing rulemaking procedures to redefine the Salinas-Monterey market to include Santa Clara County in that market. The Commission currently allows parties to petition for addition of counties or communities to the list of markets included in Section 76.51 of the Commission's Rules through the use of Part 1, Subpart C rulemaking procedures. The Cable Act does not preclude the Commission from continuing to utilize this procedure. Indeed, the Act specifically directs the Commission to revise the list in Section 76.51 as required to implement the provisions of the Cable Act. 47 U.S.C. Section 614(f). By utilizing its existing rulemaking procedures to add Santa Clara County to the Salinas-Monterey ADI, the Commission will accord must-carry rights to all stations in the market in the new county. This will avoid the competitive imbalance the Commission's

CERTIFICATE OF SERVICE

I, Kathy Nickens, a secretary in the law firm of Rubin, Winston, Diercks, Harris & Cooke, do hereby certify that a copy of the foregoing "MOTION FOR LEAVE TO FILE REVISED PETITION FOR RECONSIDERATION" was served this 10th day of May, 1993, by first-class postage mail to the following:

Tom W. Davidson
Paul S. Pien
Akin, Gump, Strauss, Hauer & Feld
1333 New Hampshire Avenue, N.W.
Suite 400
Washington, D.C. 20036
Counsel for Granite Broadcasting
Corporation


Kathy Nickens